HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

–

WRIT PETITION NO. 9293 OF 1996

BETWEEN

K. Nagabhusanam

.....**Petitioner**

And

The District Consumer Redressal Forum, Karimnagar & others

.....**Respondents**

:: O R D E R::

Counsel for the Petitioner : Shri A. Bhaskarachari

Counsel for the Respondent Nos.1 and 3 : Government Pleader for Endowments

Dated: 12.04.2006

Unwarranted assumption of jurisdiction by the District Consumer Forums in matters with which they have nothing to do, compels victims of their whimsical and fanciful orders to seek intervention of the Court by filing petitions under Article 226 of the Constitution of India.

While sitting in Division Bench, I have come across extremely unusual orders passed by the District Consumer Forums. In one case, an interim order was passed restraining Executive Engineer of Panchayat Raj Department from constructing Panchayat Bhavan at a particular place. In another case, direction was given by the District Forum for running Hi-tech bus in a particular city. Both the orders were set aside by this Court because, it was found that the District Consumer Forums do not have the jurisdiction to entertain the complaints made by the so-called consumers.

I have made a mention of the two recent cases because, I find that almost ten years ago also, the District Consumer Forums had been entertaining applications in matters which have no relation whatsoever with the provisions of The Consumer Protection Act, 1986 (for short 'the Act').

The petitioner K. Nagabhushanam (Executive Officer of Shri Sardar Satram, Jagityala town, Karimnagar district) has filed this petition for quashing order dated 18.04.1996 passed by the District Forum in I.A. Nos. 141 and 144 of 1996 and directed Deputy Superintendent of Police, Jagityala to provide protection to the complainant Arya Vysya Sangham, Jagityala and also restrained the petitioner from interfering with the function being organized by the complainant.

The petitioner has averred that the dispute relating to premises bearing No.2-6-44/A (old) (M.No.2-5-74/1 new) admeasuring 787 square yards became subject matter of dispute between Arya Vysya Sangham, Jagityala represented by its President and Sardar Satram, Jagityala represented by its Executive Officer in a petition filed under Section 45 read with Section 67 of The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, which was decided by the Deputy Commissioner, Endowments, Hyderabad vide his order dated 25.05.1995. He has further averred that even though respondent No.2 is neither a 'consumer' within the meaning of Section 2(d) of the Act and in his capacity as Executive Officer of Shri Sardar Satram, Jagityala town, he has not been providing any services to respondent No.2 and there is no dispute between the parties which falls within the ambit of the expression 'consumer dispute' appearing in Section 2(e) of the Act, District Consumer Forum, Karimnagar not only entertained the complaint filed by respondent No.2 under Section 12 of the Act but also issued unusual directions of providing police protection and allowing the complainant to hold function in the disputed premises.

I have heard Shri Bhaskarachari. In my opinion, the order under challenge as also the proceedings relating to O.P.No.217 of 1996 filed by respondent No.2 are liable to be quashed. The terms 'consumer', 'consumer dispute' and 'service' have been defined in Sections 2(d), 2 (e) and 2(o) of the Act. The same read as under:

"**Consumer**" means any person who-

i. buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or

ii. hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who (hires or avails of) the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purpose;

"**Consumer dispute**" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations obtained in the complaint.

"**Service**" means service of any description which is made available to potential (users and includes, but not limited to, the provision of) facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both (housing construction) entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service."

Section 12 of the Act, which provides for filing of complaint, also reads as under:

"**Manner in which complaint shall be made** – A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by, -

a. the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

b. any recognized consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

c. one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum on behalf of, or for the benefit of, all consumers so interested; or

d. the Central Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of consumers in general."

A conjoint reading of the provisions reproduced above shows that the District Consumer Forum can entertain complaint in the matter of any defect or deficiency in the services provided to the consumer. This necessarily means that before the District Forum can assume jurisdiction to entertain the complaint filed under Section 12, it has to satisfy itself that the complainant falls within the definition of term 'consumer' and the services provided to him are defective or deficient. If the complainant does not fall within the definition of 'consumer' or any service is provided by the opposite party, the dispute between them cannot be made subject matter of complaint under Section 12 of the Act.

The allegations contained in the complaint made by respondent No.2 do not disclose that the complainant is a 'consumer' or any service is being provided by the petitioner. Therefore, there is no escape from the conclusion that the complaint filed by respondent No.2 was not maintainable and the District Forum committed a jurisdictional error by entertaining the same.

In the premise aforesaid, the writ petition is allowed. The proceedings pending before the District Consumer Forum, Karimnagar are quashed. As a sequel to this, the interim orders passed by the District Forum shall stand automatically nullified.

G.S.SINGHVI, CJ

ksld/vtv

12.04.2006